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October 22, 2020

VIA EMAIL

Joint Committee on Ways and Means
General Court of the Commonwealth of Massachusetts

Re: Governor's Revised FY2021 Budget – Daily Sales Tax Remittance

Dear Members of the Joint Committee on Ways and Means:

On behalf of the Council On State Taxation ("COST"), I am writing to urge you to remove from the budget Section 39, requiring the daily remittance of sales tax by third party payment processors. Such requirements would impose staggering costs on the business community, forcing it to build entirely new sales tax collection, remittance, and reconciliation systems that do not exist today. Further, Section 39 would not prevent fraud in the cash economy as its proponents suggest, and any benefits of the requirements set forth in Section 39 can be achieved instead with the estimated prepayments outlined in Section 38 of the budget.

About COST

COST is a nonprofit trade association consisting of approximately 550 multistate corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. COST members are significant contributors to economic development and employment in Massachusetts.

Staggering Implementation Costs

Section 39 could cost Massachusetts businesses \$1.2 billion in up-front implementation costs and an additional \$28 million in annual recurring costs.¹ No state currently requires daily sales tax remittance by payment processors. Because this would be a novel compliance requirement, new systems would need to be developed and implemented for the information flow between retailers, payment processors, and banks to implement this unprecedented change to sales tax collection procedures. Payment processors do not currently collect information on the amount of tax due on each transaction; they only know the total charge for each transaction. At a minimum, payment processors would need to gather the retailer's taxpayer ID and the tax amount of each Massachusetts sale. Not all current card processing

¹ [https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/daily-sales-tax-collection-system-could-cost-massachusetts-businesses-\\$1.2-billion.pdf](https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/daily-sales-tax-collection-system-could-cost-massachusetts-businesses-$1.2-billion.pdf)

hardware can handle the increased information flow, and new hardware would be required. To the extent current hardware can handle the increased information flow, new software upgrades would still be required.

Moreover, each retailer, large and small, will need to implement new systems to track and reconcile all these payments. Hundreds of payment processors exist in the market today, and a single retailer may use multiple payment processors. Currently, a retailer need only track the single monthly payment it makes to the DOR; if this measure passes that retailer would need to reconcile potentially thousands of payments made on its behalf by payment processors. Many of the increased hardware, software, and personnel costs would be recurring costs for both payment processors and retailers, creating an unfunded mandate from the State.

Illusory Benefits

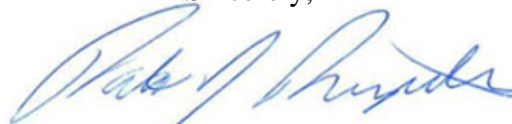
Section 39 only affects card transactions; it does not impact the cash economy. Any analysis of potential fraud prevention benefits of daily remittance of sales tax by card processors should therefore ignore any impact on fraud in the cash economy. Indeed, a recent study, *The Illusory Benefits of an Accelerated Sales Tax Remittance System*,² recognized that if requirements such as those proposed in Section 39 do not address the cash economy, any potential fraud prevention benefits are illusory. The study cites Professor Ainsworth, author of numerous studies on sales tax fraud in Massachusetts and elsewhere, who has argued that daily remittance of sales tax by third party payment processors doesn't get to the root of the problem – cash transactions.³

As noted, the benefits of Section 39 can be achieved by adopting Section 38, which requires estimated prepayments by certain retailers. COST does not advocate for an estimated prepayment; however, it can be implemented without imposing staggering costs on businesses.

Conclusion

COST urges the Joint Committee on Ways and Means to remove Section 39 from the budget. Forcing the business community to expend large sums of time and money to build the systems required for daily remittance is simply bad policy, especially when the potential benefit to the Commonwealth can be achieved through the less intrusive means set forth in Section 38. If you have any questions or would like to discuss this issue further, please do not hesitate to contact me.

Sincerely,



Patrick J. Reynolds
Senior Tax Counsel

CC: COST Board of Directors
Douglas Lindholm, COST President & Executive Director

² <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/accelerated-sales-tax-remittance-study.pdf>

³ Mary Markos. "Experts Recommend Measures for State to Track, Collect Revenues." *Boston Herald*, June 14, 2019. In a conversation between Bill Rennie, Retailers Association of Massachusetts, et.al, and Professor Ainsworth on September 10, 2019, Ainsworth indicated that "most if not all of the fraud is in the cash economy."